



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF C-A-H-

DATE: MAR. 1, 2018

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, who works in the field of integrative medicine, seeks second preference immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. See Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Director of the Texas Service Center denied the petition and we dismissed the subsequent appeal. The matter is now before us on a motion reopen and a motion to reconsider. Upon review, we will deny the motions.

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or USCIS policy. Upon filing, a motion must include all initial evidence required by applicable regulations and other USCIS instructions. 8 C.F.R. § 103.2(b)(1). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The Petitioner indicated on the Form I-290B, Notice of Appeal or Motion, that it was filed as a motion to reopen and reconsider and the brief is attached. However, rather than attaching a brief the Petitioner requested additional time after the motion filing date to submit a brief. Although the regulation at 8 C.F.R. § 103.3(a)(2)(vii) states that a petitioner may be permitted additional time to submit a brief or additional evidence to us in connection with an appeal, no such provision applies to a motion to reopen or reconsider. The additional evidence must comprise the motion. See 8 C.F.R. §§ 103.5(a)(2) and (3). The Petitioner has not asserted new facts to be proved in the reopened proceeding, and does not cite binding precedent decisions or other legal authority establishing that we or the director incorrectly applied the pertinent law or agency policy and that the prior decisions were erroneous based on the evidence of record at the time. Therefore, the motions do not satisfy applicable requirements.

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ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of C-A-H-*, ID# 1410120 (AAO Mar. 1, 2018)